THE HON'BLE SRI BILAL NAZKI,
THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.1022 of 2007

Dated: 06-12-2007

Between:

1.The District Collector, Ranga Reddy District,
Hyderabad, and 4 others.

.... Appellants

AND

M/s.Usha Kiron Movies Limited,
Hyderabad, rep. by its authorized Signatory and GPA Holder,
V.Govinda Rao, Hyderabad.

.....Respondents

THE HON'BLE SRI BILAL NAZKI,
THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.1022 of 2007

Dated: 06-12-2007

Judgment: **(Per Hon'ble Sri Bilal Nazki, The Acting Chief Justice)**

This Writ Appeal has been filed by the appellants-respondents aggrieved by an order dated 05-10-2007 passed by a learned single Judge of this Court in W.P.No.21061 of 2007.

Heard the learned Counsel for the parties and perused the material available on record.

A show cause notice dated 05-02-2007 issued under

Section 7 of the A.P.Land Encroachment Act, 1905 (for short 'the Act'), to the respondent, was the subject matter in W.P.No.21061 of 2007.

The learned Government Pleader for Revenue appearing for the appellants submits that the Writ Petition was filed against the said show cause notice.

But, the learned Counsel appearing for the respondent submits that the Writ Petition was not filed challenging the show cause notice and as a matter of fact, the respondent was prepared to file his reply to the show cause notice and contest the matter, but, there was an apprehension that immediately after passing the order under Section 6 of the Act, the appellants would start demolition without giving time to the respondent to file an appeal, which is provided under the Act. The time for filing an appeal against the order passed under Section 6 of the Act is 60 days, therefore, he filed Writ Petition No.21061 of 2007 apprehending that in case the third appellant decides the case against him, he may not give 60 days time to file an appeal and during this period, the appellants may start removing the encroachment. The learned single Judge disposed of the Writ Petition directing as under:

> 'Having regard to the facts and circumstances of the case, Writ Petition is disposed of directing the
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> 3rd respondent to consider the explanation of the petitioner and after giving reasonable opportunity to the petitioner of personal hearing conduct an enquiry and pass appropriate orders under Section 6 of the Act and in the event of passing any adverse orders against the petitioner, reasonable time of fifteen days from the date of service of the order, passed if any, may be given to the petitioner to remove the encroachment so as to enable him to avail any legal remedy. There shall be no order as to costs.'

The appellants are aggrieved of the direction on the ground that this order gives an impression that they would necessarily pass an order adverse to the respondent. We do not think that such an interpretation can be made of the impugned order of the learned single Judge. The learned single Judge was only trying to infer that no arbitrariness was possible before the respondent could exhaust his remedies, which were available under the Act. The Act provides for an appeal and there is 60 days time to file an appeal, but after passing the order under Section 6 of the Act, if the encroachment is removed and demolition is made immediately, then the appeal itself would become infructuous. Therefore, the learned single Judge tried to protect the interests of the appellants-State as well as the respondent-writ petitioner by passing the impugned order.

We do not find any merit in the Writ Appeal, and it is, accordingly, dismissed. No costs.

(Bilal Nazki, A.C.J)

Dated 6th December, 2007

(Ramesh Ranganathan, J)

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